

Children and Family Affairs Committee Amendment No. 1

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1165*

House Bill No. 1109

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 37-1-134, is amended by inserting the following new subsection, to be designated as subsection (c), and by relettering existing subsections and cross-references accordingly:

(c)

(1) Notwithstanding the provisions of subsections (a) and (b) or any other law to the contrary, if a petition is filed with the juvenile court alleging delinquency based on conduct which constitutes the offense of first degree murder, second degree murder, aggravated vehicular homicide, aggravated rape, especially aggravated robbery, especially aggravated kidnapping, aggravated arson or any other Class A felony involving serious bodily injury or death of the victim and if such petition also alleges that the child was fifteen and one-half (15½) years of age or older at the time of the alleged conduct, then the juvenile court shall give reasonable notice in writing of the time, place and purpose of the hearing to the child and the child's parents, guardian or other custodian at least three (3) days prior to the hearing and shall then conduct a hearing on whether the transfer should be made. Such hearing shall be held in conformity with §§ 37-1-124, 37-1-126 and 37-1-127.

(2) Unless the juvenile court reaches a contrary decision based upon its consideration of mitigating circumstances as authorized by the provisions of subdivision (3), the juvenile court shall transfer the child to the sheriff of the

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county to be held according to law and to be dealt with as an adult in the criminal court of competent jurisdiction if the juvenile court finds that there are reasonable grounds to believe that:

(A) The child committed the delinquent act as alleged and had a substantial role in committing such act;

(B) The delinquent act constitutes one (1) of the offenses identified within subdivision (1) of this subsection;

(C) The child was fifteen and one-half (15½) years of age or older at the time of the alleged conduct; and

(D) The child is not committable to an institution for the mentally retarded or mentally ill.

(3) In reaching its decision, the juvenile court may consider any mitigating circumstances regarding the child's alleged involvement in the offense including, but not limited to, whether the child was physically, sexually or emotionally abused by the victim.

(4) The district attorney general may not seek, nor may any child transferred under the provisions of this subsection receive, a sentence of death for the offense for which the child was transferred.

(5) Any petition alleging delinquency of any child under eighteen (18) years of age, in which the circumstances of the case do not conform to the requirements for transfer set forth under subdivisions (1) and (2) of this

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subsection, shall be governed by the transfer provisions set forth under subsections (a) and (b). Furthermore, if a transfer hearing is conducted under subdivisions (1) and (2) of this subsection but the juvenile court does not transfer the child based solely on the lack of reasonable grounds to believe that the child had a substantial role in committing such act, then the child shall still be subject to transfer but only upon a subsequent finding by the court, pursuant to item (C) of subdivision (4) of subsection (a), of reasonable grounds to believe that the interests of the community require that the child be transferred.

SECTION 2. Tennessee Code Annotated, Section 37-1-134(a)(1), is amended by deleting the first sentence and by substituting instead the following:

The child was fifteen and one-half (15½) years or more of age at the time of the alleged conduct, or the child was less than fifteen and one-half (15½) years of age if such child was charged with the offense of first degree murder, second degree murder, aggravated vehicular homicide, rape, aggravated rape, rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, especially aggravated kidnapping, aggravated arson or any Class A felony involving serious bodily injury or death of the victim or an attempt to commit any of such offenses.

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SECTION 3. Tennessee Code Annotated, Sections 37-1-134, is amended by deleting from the subsections, designated as (c) and (e) prior to this enactment, the word, letter and symbols "subsection (a)" and by substituting instead the following:

subsections (a) or (c)

SECTION 4. This act shall take effect October 15, 1997, the public welfare requiring it, and shall apply to acts committed on or after such date.

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